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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

Eisenger

FOR

**APPLICATION OF TEXTURED OR
PATTERRED SURFACES TO A
PROTOTYPE**

SERIAL NO.

09/807,262

FILED

October 11, 2001

LAST OFFICE ACTION

December 18, 2003

EXAMINER

Kripa Sagar

GROUP ART UNIT

1756

ATTORNEY DOCKET NUMBER

30553.30012

Akron, Ohio 44308-1471

May 7, 2004

CERTIFICATE OF MAILING

I hereby certify that this **PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER THE PROVISIONS OF 37 C.F.R. 1.137(b)** is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop: Petitions, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

May 7, 2004

Date

D. M. Kempthorn

D. M. Kempthorn

**PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION
UNDER THE PROVISIONS OF 37 C.F.R. 1.137(b)**

Mail Stop: Petitions
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

05/12/2004 AWONDAF1 00000032 501210 09807262

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665.00 DA

Dear Sir:

Applicant's attorney respectfully petitions the Commissioner for Patents to revive the above-identified application under the provisions of 37 C.F.R. 1.137(b) on the ground that the delay was unintentional. This petition is supported by the following affidavit.

The application was abandoned on December 27, 2003, due to failure to respond to an office action. Due to a computer crash, and a docketing error, the undersigned was not aware that applicant's response to a final office action was not entered, and that the six-month deadline for response had lapsed.

At that time, the undersigned became aware of his oversight and promptly prepared this Petition to Revive, as well as the enclosed Affidavit by John M. Skeriotis.

It is submitted, therefore, that, on the basis described above, the abandonment should be held to be inadvertent, the delay should be held to be unintentional, the enclosed Request for Continued Examination should be entered and the case revived.

The Commissioner is hereby authorized to charge the petition fee in the sum required under 37 C.F.R. 1.17(m) in the amount of \$665. The Commissioner is hereby authorized to charge any additional fees by this paper and during the entire pendency of this application to Account No. 501210.

Respectfully submitted,

BROUSE McDOWELL

Date

May 7, 2004


Daniel A. Thomson, Esq.
Reg. No. 43,189

Telephone No.:

330.535.5711

Fax No.:

330.253.8601

#573872 v1

500 First National Tower
Akron, OH 44308-1471

COPY

PTO/SB/30 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031
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Request For Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	09/807,262
Filing Date	October 11, 2001
First Named Inventor	Eisenger
Art Unit	1756
Examiner Name	Kripa Sagar
Attorney Docket Number	30553.30012

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. Consider the arguments in the Appeal Brief or Rely Brief previously filed on _____
ii. Other _____

b. Enclosed

i. Amendment/Reply iii. Information Disclosure Statement (IDS)
ii. Affidavit(s)/ Declaration(s) iv. Other Copy of Petition to Revive

2. **Miscellaneous**

a. period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b. Other _____

3. **Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

The Director is hereby authorized to charge the following fees, or credit any overpayments, to

a. Deposit Account No. 501210

i. RCE fee required under 37 CFR 1.17(e)
ii. Extension of time fee (37 CFR 1.136 and 1.17)
iii. Other _____

b. Check in the amount of \$ _____ enclosed

c. Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

COPY

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	<u>Daniel A. Thomson</u>	Registration No. (Attorney/Agent)	<u>43,189</u>
Signature		Date	<u>May 7, 2004</u>

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	<u>D. M. Kemphorn</u>	Date	<u>May 7, 2004</u>
Signature			

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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: Kripa Sagar

GROUP ART UNIT

: 1756

ATTORNEY DOCKET NUMBER

: 30553.30012

Akron, Ohio 44308-1471
May 7, 2004

CERTIFICATE OF MAILING

I hereby certify that this **DECLARATION OF JOHN M. SKERIOTIS** is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop: Petitions, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

May 7, 2004

Date

D. M. Kemphorn

D. M. Kemphorn

DECLARATION OF JOHN M. SKERIOTIS

Mail Stop: Petitions
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, John M. Skeriotis, declare as follows:

1. I am a registered patent attorney, Registration No. 43,129.
2. I am a shareholder in the firm of Brouse McDowell, 106 South Main Street, Suite #500, Akron, OH 44308-1471.
3. I am responsible for the prosecution of the above-identified patent application.
4. A final office action was issued June 27, 2003.
5. A response was filed October 27, 2003.
6. Due do a computer crash, combined with a docketing error, the undersigned was not aware that the amendment had not been entered until after the six-month deadline had passed.
7. I further declare that the statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 in the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Respectfully submitted,

BROUSE McDOWELL



Date

May 7, 2004

Telephone No.: 330.535.5711
Fax No.: 330.253.8601

John M. Skeriotis, Esq.
Reg. No. 43,129
500 First National Tower
Akron, Ohio 44308-1471